

1 JON P. NEUSTADTER (State Bar No. 172348)
JORDAN B. KEVILLE (State Bar No. 217868)
2 **HOOPER, LUNDY & BOOKMAN, INC.**
1875 Century Park East, Suite 1600
3 Los Angeles, California 90067-2517
Telephone: (310) 551-8111
4 Facsimile: (310) 551-8181
E-Mail: jkeville@health-law.com

E-FILED - 7/16/08

5 Attorneys for KAISER FOUNDATION
6 HOSPITALS, INC. dba KAISER
FOUNDATION HOSPITAL – SANTA CLARA
7

8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

10
11 KAISER FOUNDATION HOSPITALS, INC., a
California Nonprofit Public Benefit Corporation
12 d/b/a/ KAISER FOUNDATION HOSPITAL –
SANTA CLARA,

13 Plaintiff,

14 vs.

15 MICHAEL O. LEAVITT, Secretary of the United
16 States Department of Health and Human Services,

17 Defendant.
18

CASE NO. C 07-02421 RMW

**JOINT STIPULATION TO
CONTINUE CASE MANAGEMENT
CONFERENCE AND ~~PROPOSED~~
ORDER THEREON**

19 TO THE HONORABLE RONALD M. WHYTE, ALL PARTIES AND THEIR
20 ATTORNEYS OF RECORD:

21 Plaintiff Kaiser Foundation Hospital – Santa Clara ("Plaintiff") and Defendant Michael O.
22 Leavitt, Secretary for the United States Department of Health and Human Services, by and
23 through their respective counsel of record, hereby stipulate and agree as follows:

24 WHEREAS, on May 4, 2007, the Plaintiff filed and served Complaint in the above-
25 referenced action seeking judicial review of an administrative decision concerning Medicare
26 reimbursement;

27 WHEREAS, the Defendant filed and answer to Plaintiff's Complaint on August 10, 2007;

28 WHEREAS, there currently is a Case Management Conference in the case scheduled for

HOOPER, LUNDY & BOOKMAN, INC.
1875 CENTURY PARK EAST, SUITE 1600
LOS ANGELES, CALIFORNIA 90067-2517
TEL: (310) 551-8111 • FAX: (310) 551-8181

1 July 18, 2008;

2 WHEREAS, as previously represented to the Court, Plaintiff has been attempting to
3 resolve the dispute at issue in the Complaint through administrative means, without the need for
4 additional litigation; and

5 WHEREAS, the Plaintiff and its Medicare fiscal intermediary, an agent of the Defendant,
6 have agreed in principal to a means of administratively resolving the matter, but the plan for
7 administrative resolution has not been fully implemented yet; and

8 WHEREAS, if the administrative resolution is completed under the terms agreed upon by
9 the Plaintiff and the fiscal intermediary the Plaintiff will no longer need to pursue the present
10 action and will voluntarily dismiss the case; and

11 WHEREAS the parties believe it is in their mutual best interests, as well as in the interest
12 of judicial economy and efficiency, for Plaintiff to be given time to complete the administrative
13 resolution of the substantive issue underlying this action before any further litigation activity is
14 required;

15 NOW, THEREFORE, the Parties hereby agree and stipulate, with the permission of the
16 Court, to the following:

17 1. The Case Management Conference presently set in this action for July 18, 2008
18 is taken off calendar, and

19 2. The Case Management Conference is re-set on a day selected by the Court in its
20 discretion, but not earlier than September 18, 2008.

21 DATED: July 10, 2008

Respectfully submitted,
JON P. NEUSTADTER
JORDAN B. KEVILLE
HOOPER, LUNDY & BOOKMAN, INC.

22 By: /s/

23 Jordan B. Keville
24 Attorneys for KAISER FOUNDATION HOSPITALS,
25 INC. dba KAISER FOUNDATION HOSPITAL –
26 SANTA CLARA
27
28

1 DATED: July 10, 2008

GEORGE S. CARDONA
Acting United States Attorney
LEON WEIDMAN
Assistant United States Attorney
Chief, Civil Division

5 By: /s/

James Scharf
Assistant United States Attorney
Attorneys for Michael O. Leavitt, Secretary for the
United States Department of Health and Human Services

8 ~~PROPOSED~~ ORDER

9 GOOD CAUSE APPEARING THEREFORE, IT IS SO ORDERED. The Court hereby
10 DATED: July 16, 2008 continues the Case Management Conference to 9/19/08 @
11 10:30 a.m.

12 By: Ronald M. Whyte
13 UNITED STATES DISTRICT JUDGE

HOOPER, LUNDY & BOOKMAN, INC.
1875 CENTURY PARK EAST, SUITE 1600
LOS ANGELES, CALIFORNIA 90067-2517
TEL: (310) 551-8111 • FAX: (310) 551-8181